

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

REGIONS BANK, as Special Administrator
for the Estate of Travis Lynn Hill, Deceased

PLAINTIFFS

v.

NO. 4:06CV01475 JLH

JOHN WHITE and DAILY EXPRESS, INC.

DEFENDANTS

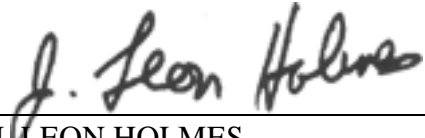
ORDER

Regions Bank has filed a motion *in limine* asking the Court to exclude any evidence or mention of insurance, workers' compensation, or other collateral sources that may have paid medical and funeral expenses that are claimed as damages in this case. The defendant admits that benefits paid under workers' compensation are not admissible for the purpose of mitigation or reduction of damages but might be admissible under circumstances explained by the Supreme Court of Arkansas in *Montgomery Ward & Co., Inc. v. Anderson*, 334 Ark. 561, 566, 976 S.W.2d 382, 384-85 (1998). Therefore, without objection, Regions Bank's motion first motion *in limine* is granted as to evidence that would be excluded by the collateral source rule as adopted by the Supreme Court of Arkansas.

Regions Bank also has moved *in limine* asking for a declaration that Ark. Code Ann. § 16-55-212(b) is unconstitutional and prohibiting the defense from relying on that statute at trial. The Supreme Court of Arkansas has recently held that Ark. Code Ann. § 16-55-212(b) is unconstitutional. *Johnson v. Rockwell Automation, Inc.*, __ S.W.3d __, 2009 WL 1218362 (Ark., April 30, 2009). This Court obviously will follow the holding of the Supreme Court of Arkansas and will not allow the defendants to rely on that statute at trial.

Regions Bank's first motion *in limine* regarding collateral sources is GRANTED. Document #51.

IT IS SO ORDERED this 19th day of June, 2009.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE